Meeting of States Parties

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Report of the fifteenth Meeting of States Parties

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I. Introduction

1. The fifteenth Meeting of States Parties to the United Nations Convention on the Law of the Sea[1] was convened in New York from 16 to 24 June 2005, in accordance with article 319, paragraph 2 (e), of the Convention and the decision taken by the General Assembly at its fifty-ninth session (resolution 59/24, para. 17).

2. Pursuant to that decision and in accordance with rule 5 of the Rules of Procedure for Meetings of States Parties (SPLOS/2/Rev.4), invitations to participate in the Meeting were addressed by the Secretary-General of the United Nations to all States parties to the Convention. Invitations were also addressed to observers in conformity with rule 18 of the Rules of Procedure, including to the President and the Registrar of the International Tribunal for the Law of the Sea, the Secretary-General of the International Seabed Authority and the Chairman of the Commission on the Limits of the Continental Shelf.

II. Organization of work

A. Opening of the fifteenth Meeting of States Parties and election of officers

3. Norma Elaine Taylor Roberts, Deputy Permanent Representative of Jamaica to the United Nations and Vice-President of the fourteenth Meeting of States Parties, opened the fifteenth Meeting on behalf of Ambassador Allieu Kanu (Sierra Leone), President of the fourteenth Meeting of States Parties, who was unable to attend due to exigencies of service.

4. The Meeting elected by acclamation Ambassador Andreas D. Mavroyiannis (Cyprus) President of the fifteenth Meeting.

5. Krassimira T. Beshkova (Bulgaria), Ali Hafrad (Algeria), Isabelle F. Picco (Monaco) and Gaile Ann Ramoutar (Trinidad and Tobago) were elected Vice-Presidents.

6. Nicolas Michel, the Under-Secretary-General for Legal Affairs and Legal Counsel, welcomed delegations to the fifteenth Meeting. In his introductory statement, the Legal Counsel stated that States parties should remain united in implementing the goals of the Convention, in particular its goal of the promotion of the peaceful uses of the seas and oceans. He urged States parties to deploy all their efforts with a view to the effective implementation of this important instrument.

B. Introductory statement by the President

7. In his opening statement, the President welcomed all States parties, in particular Burkina Faso, Denmark and Latvia, which had become parties to the Convention since the fourteenth Meeting, bringing the total number of parties to 148. The President announced with regret the recent passing away of Ambassador Kenneth Rattray (Jamaica), Rapporteur-General of the Third United Nations Conference on the Law of the Sea. The President recounted the contribution of Ambassador Rattray to the development of the law of the sea, including the position

he held as Rapporteur-General of the conference, and requested the delegation of Jamaica to convey the sympathy of the Meeting to the family of Ambassador Rattray and to the Government of Jamaica. A minute of silence was observed in honour of Ambassador Rattray.

8. The President welcomed the President and Registrar of the Tribunal, the Secretary-General of the Authority and the Chairman of the Commission, emphasizing the important achievements of those bodies since the fourteenth Meeting.

9. In his introductory remarks, the President stated that the Convention should be fully implemented and that its integrity should be maintained, as underlined by many delegations at the sixth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, which took place from 6 to 10 June 2005.

C. Adoption of the agenda and organization of work

10. Referring to the provisional agenda (SPLOS/L.43), the President noted that, following the decision taken at the fourteenth Meeting, the report of the Secretary-General on oceans and the law of the sea to the General Assembly (A/60/63) is also presented to the Meeting of States Parties pursuant to article 319 of the Convention, to be considered under the agenda item entitled "Report of the Secretary-General under article 319 for the information of States parties on issues of a general nature, relevant to States parties that have arisen with respect to the United Nations Convention on the Law of the Sea". The President completed the overview of the provisional agenda referring to the items relating to the information concerning the Authority and the Commission, as well as procedural aspects such as the adoption of the agenda, the organization of work, the election of the Vice-Presidents and the appointment of the Credentials Committee.

11. After a general overview of the provisional agenda by the President, the Meeting adopted the agenda (SPLOS/130) with some amendments suggested by the President. Subsequently, the President outlined the organization of work, drawing particular attention to the election of the seven members of the Tribunal to fill the vacancies that will occur on 1 October 2005 and informing the delegations that the Secretariat had consolidated all the amendments to the Rules of Procedure for Meetings of States parties in a new document (SPLOS/2/Rev.4). The Meeting approved the organization of work as outlined by the President.

III. Report of the Credentials Committee

12. On 20 June 2005, the Meeting appointed a Credentials Committee consisting of the following nine members: Bahamas, Canada, Czech Republic, Greece, Grenada, Indonesia, Malaysia, South Africa and Uganda. The Credentials Committee held two meetings, on 21 and 22 June. It elected Rosette Katungye Nyirinkindi (Uganda) Chairperson. At its meetings, the Committee examined and accepted the credentials of representatives to the fifteenth Meeting from 147 States parties to the Convention and the European Community. On 22 June, the Meeting approved the first and second reports of the Committee (SPLOS/131 and 134).

IV. Matters related to the International Tribunal for the Law of the Sea

A. Annual report of the Tribunal

13. The annual report of the International Tribunal for the Law of the Sea for 2004 (SPLOS/122) was submitted to the Meeting in accordance with rule 6, paragraph 3 (d), of the Rules of Procedure.

14. The President of the Tribunal, Judge Dolliver Nelson, in introducing the document, drew attention to the election of seven judges of the Tribunal to be held during the Meeting. He then proceeded with the description of the work carried out by the Tribunal during the two sessions held in 2004, the seventeenth, from 22 March to 2 April, and the eighteenth, from 20 September to 1 October.

15. With regard to legal and judicial matters, he informed the Meeting that the Committee on Rules and Judicial Practice and the plenary had reviewed the rules and judicial procedures of the Tribunal, discussing, in particular, the procedure for revision or interpretation of a judgement or order with respect to urgent proceedings before the Tribunal, a code of conduct for counsel, amicus curiae before international courts and tribunals, contributions towards the expenses of the Tribunal, bonds and other financial security under article 292 of the Convention, rules regarding evidence and the implementation of the decisions of the Tribunal. With regard to administrative and organizational matters, the President mentioned that the Tribunal had dealt with the draft budget proposals for 2005-2006, draft financial rules, the annual report, the appointment of staff, amendments to the Staff Regulations and Rules, maintenance of the premises and electronic systems, library facilities and publications.

16. The President continued with the description of the judicial work carried out by the Tribunal in relation to the "*Juno Trader*" *Case (Saint Vincent and the Grenadines* v. *Guinea-Bissau), Prompt Release*. The case, the thirteenth on the Tribunal's list of cases, involved the prompt release of the vessel *Juno Trader* and its crew under article 292 of the Convention. Proceedings were instituted on 18 November 2004 by an application filed on behalf of Saint Vincent and the Grenadines against Guinea-Bissau. The Tribunal met from 30 November to 18 December and adopted unanimously its judgement, which was delivered on 18 December (see SPLOS/122, paras. 23-29). The President also recalled the *Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean (Chile/European Community)*, which was still pending on the docket. That case was submitted to a special chamber of the Tribunal, and by an order dated 16 December 2003 the time limit for making preliminary objections with respect to the case was extended at the request of the parties until 1 January 2006 to enable them to reach a settlement.

17. The President went on to note that jurisprudence created by the Tribunal had already made a significant contribution to the development of international law. In that regard, he underlined that the existence of the Tribunal was conducive to the peaceful settlement of disputes, as noted by the General Assembly in its resolution 59/24. From another perspective, the President noted that on several occasions, the Registry had received requests for information regarding the institution of prompt release proceedings, and on more than one occasion cases had not been instituted

because negotiations between the parties proved successful. The President noted in that regard that it was a function of the Tribunal to be easily available to parties, a factor that could facilitate the negotiation process between the parties to a dispute.

18. He noted that currently only 35 States parties to the Convention had filed declarations under article 287 of the Convention, and 21 States parties had chosen the Tribunal as the means or one of the means for the settlement of disputes concerning the interpretation or application of the Convention. He also reminded the delegations that in the absence of declarations under article 287 of the Convention, or if the parties had not selected the same forum, the dispute could only be submitted to arbitration, unless the parties otherwise agreed. In that connection, he noted that the parties could submit their disputes to a special chamber of the Tribunal, in accordance with article 15, paragraph 2, of its Statute, a procedure that represented an alternative to arbitration. He highlighted other features, namely the availability of advisory proceedings of the Tribunal and of a trust fund that would assist States parties in the settlement of disputes through the Tribunal.

19. The President also drew attention to the recommendation contained in General Assembly resolution 59/24 (para. 26), in which the Assembly called upon States that had not done so to consider ratifying or acceding to the Agreement on the Privileges and Immunities of the Tribunal.[2] Only 16 States parties had so far ratified or acceded to the Agreement.

20. He reiterated the appeal contained in the same resolution (para. 25) to all States parties to pay their assessed contributions to the Tribunal in full and on time, underlining that, in view of the significant amount of outstanding contributions (€1,595,915 for the period 1996 to 2004 and €2,779,905 for the 2005 period, as at 31 May 2005), the Tribunal would face short-term liquidity problems and might have to resort to the Working Capital Fund. In that regard he made reference to the notes verbales by the Registrar reminding all States parties concerned of the amount of the arrears in the payment of their contributions to the Tribunal's budgets for the financial periods from 1996-1997 to 2005.

21. The President informed the Meeting that on 14 December 2004 the headquarters agreement between the Tribunal and Germany was signed. He expressed gratitude to the host country for the cooperation extended to the Tribunal in this matter and recalled that earlier in the year (1 September 2004) the Tribunal had had the honour of receiving Horst Köhler, President of Germany, accompanied by 140 members of the diplomatic corps.

22. The President reported that a symposium on maritime delimitation organized in commemoration of the tenth anniversary of the entry into force of the Convention had taken place on the premises of the Tribunal on 25 and 26 September 2004. He reminded delegations of the internship programme of the Tribunal and the grant provided by the Korea International Cooperation Agency for funding participation in the programme. A total of nine interns from developing countries benefited from the grant in 2004. He expressed the Tribunal's gratitude to the Korea International Cooperation Agency.

23. After the statement by the President of the Tribunal, the delegation of Germany expressed its satisfaction for the conclusion of the headquarters agreement with the Tribunal and informed the Meeting that the internal requirements necessary for the entry into force of the agreement would be completed as soon as possible.

24. Some delegations noted that the report showed that the Tribunal was fully equipped to carry out its mandate expeditiously.

25. The Meeting took note with appreciation of the report of the Tribunal.

B. Financial statements of the Tribunal and report of the external auditors for 2003

26. The President of the Tribunal introduced the report of the external auditors for 2003. The report also contained the financial statements of the Tribunal as at 31 December 2003 (SPLOS/121). He stated that the annual financial statements gave a true and fair view of the net assets, financial position and results of the operations of the Tribunal in accordance with principles of proper accounting and the Financial Regulations and Rules of the United Nations, which were applied mutatis mutandis.

27. The President also informed the Meeting that the external audit of the accounts for 2004 had been completed and that the report would be officially transmitted to the next Meeting after its consideration by the Tribunal.

28. Some delegations enquired as to whether the external auditor's report for 2004 could be made available to the current Meeting of the States Parties. If that was not possible because of the existing rules, one delegation asked whether it would be possible to change the Financial Rules in order to enable the Meeting to discuss the external auditor's report on the same financial year. The Registrar clarified this issue noting that, due to the Financial Regulations of the Tribunal, as adopted by the Meeting, the auditor's report had to be transmitted to the Meeting through the Tribunal. The Tribunal therefore had to consider the document prior to its transmission, attaching comments as appropriate. Since the external audit was completed two weeks prior to the Meeting of States Parties, the Tribunal could examine the report only at its next meeting, in September 2005. In addition, the Registrar explained, there would be practical difficulties in transmitting the external auditor's report in the same year, as reports were released only in May/June, thus leaving an insufficient amount of time to produce it in all official languages in time for the Meeting.

29. Some delegations reiterated the importance of sound financial management of the Tribunal.

30. The Meeting took note with appreciation of the report of the external auditors for 2003.

C. Appointment of the auditor for the Tribunal for the financial periods 2005-2006 and 2007-2008

31. The President of the Tribunal introduced a note by the Tribunal on the appointment of an auditor for the financial periods from 2005 to 2008 (SPLOS/123). He explained that the note had been prepared pursuant to regulation 12.1 of the Financial Regulations of the Tribunal in order to provide the Meeting with information in the event that the Meeting decided to appoint as auditor an internationally recognized firm.

32. An open-ended working group was established to deal with the agenda item. The President of the Meeting indicated that the choice before the Meeting was either to choose an internationally recognized firm of auditors, an Auditor-General or an official of a State party with an equivalent title. It was decided to continue to resort to international firms, since they had proved to be reliable and cost-effective and since there were no established procedures for electing a State official as auditor. Three international firms had been proposed by the Tribunal in document SPLOS/123.

33. It was proposed by one delegation that, in order to ensure continuity in the auditing of the Tribunal, the firm of auditors used by the Tribunal be accorded the opportunity once more to carry out the auditing. After careful consideration of the proposal, the Meeting decided to select the lowest bidder, the BDO Deutsche Warentreuhand firm of auditors.

D. Election of seven members of the Tribunal

34. On 22 June 2005, the Meeting elected seven members of the Tribunal to replace those members whose terms of office would expire on 30 September 2005 (SPLOS/125 and 126) in accordance with article 4, paragraph 4, of the Statute of the Tribunal and document SPLOS/L.3/Rev.1.

35. An invitation calling for nominations was addressed to all States parties in accordance with article 4 of the Statute of the Tribunal. Fifteen candidates were nominated (SPLOS/124). By a note verbale dated 6 April 2005, the Permanent Mission of Greece to the United Nations informed the Registrar of the Tribunal of the decision of the Government of Greece to withdraw the nomination of Haritini Dipla (SPLOS/124/Add.1). By a note verbale dated 11 May 2005, the Permanent Mission of Oman to the United Nations informed the Registrar of the Tribunal of the decision of the Government of Oman to withdraw the nomination of Mohammed Al-Sameen (SPLOS/124/Add.2).

36. Before the voting began, the President outlined the procedure for voting. He stated, inter alia, that the procedure for the first election, approved by consensus by the fifth Meeting and followed for elections in subsequent years, was contained in documents SPLOS/L.3/Rev.1. He further stated that, during the last elections, it had been announced that ballots would be deemed invalid if votes were cast for more candidates than the number of seats allocated to each region.

37. The election required five rounds of balloting during which the representatives of Canada, China, Mexico, Nigeria and Slovakia acted as tellers.

38. At the first round, out of 147 ballots cast, with 27 invalid ballots and no abstentions, a majority of 80 was required for the election. The following candidates were elected: L. Dolliver M. Nelson (Grenada) (113 votes), Shunji Yanai (Japan) (113 votes), Choon-Ho Park (Republic of Korea) (101 votes) and Helmut Tuerk (Austria) (85 votes).

39. At the second round there were no invalid ballots and no abstentions. Out of 147 ballots cast, a majority of 98 was required for the election. No candidates were elected.

40. At the third round there were no invalid ballots and no abstentions. Out of 146 ballots cast, a majority of 98 was required for the election. No candidates were elected.

41. At the fourth round, out of 145 ballots cast, with no invalid ballots and no abstentions, a majority of 97 was required for the election. The following candidates were elected: James L. Kateka (United Republic of Tanzania) (111 votes) and Albertus Jacobus Hoffmann (South Africa) (108 votes).

42. Following the fourth round, the representative of Croatia withdrew the candidature of Budislav Vukas.

43. A fifth ballot was carried out for the remaining seat. A total of 133 ballots were cast. There were five abstentions and no invalid ballots. With a required majority of 86, Stanislaw Pawlak (Poland) (128 votes) was elected.

44. On behalf of the Meeting, the President announced the election of Albertus Jacobus Hoffmann, James L. Kateka, L. Dolliver M. Nelson, Choon-Ho Park, Stanislaw Pawlak, Helmut Tuerk and Shunji Yanai and congratulated them on their election.

E. Consideration of budgetary matters of the International Tribunal for the Law of the Sea

Adjustment of the remuneration of members of the Tribunal

45. The President introduced the report on conditions of service and compensation for members of the Tribunal. On the adjustment of the remuneration of members of the Tribunal (SPLOS/2005/WP.1), the President recalled that the fourth Meeting of States Parties had decided to use the emoluments of the members of the International Court of Justice as the comparator to determine the remuneration of the members of the Tribunal. The General Assembly, in its resolution 59/282 of 13 April 2005, increased the annual salary of the members of the Court by 6.3 per cent to $170,080, effective 1 January 2005. As a consequence, it was proposed that the annual maximum remuneration of the members of the Tribunal also be increased to $170,080, effective 1 January 2005. The President explained that the financial impact of the increase would amount to only €200 for 2005-2006 thanks to the favourable fluctuations in the exchange rate. He further explained that the adjustment of the level of remuneration would automatically affect the pensions of former judges by virtue of the pension scheme regulations and that that would represent an additional appropriation of €6,500.

46. He underlined that the daily subsistence allowance for the members of the Tribunal, based on the rate determined for Hamburg by the United Nations, had increased from €211 in March 2004 to €233 in March 2005, requiring an additional appropriation of €108,800 for 2005-2006.

47. To cover the aforementioned increases, a total of €115,500 was required. The President proposed that the Tribunal be authorized to finance the additional increase by transfers, as far as possible, between appropriations and by using part of the savings from the financial period 2002.

48. One delegation stated that although it understood the reasons for the request for adjustment of the annual remuneration of judges of the Tribunal, it could not support the proposal contained in document SPLOS/2005/WP.1 because of its retroactive applicability. The delegation also noted that when a higher remuneration was adopted at the ninth Meeting, it was not applied retroactively.

49. An open-ended working group was established to discuss this agenda item in detail. After its deliberations, and on the recommendation of the open-ended working group, the Meeting adopted the adjustment of the remuneration of members of the Tribunal set out in document SPLOS/132.

Effects of fluctuations in exchange rate on the remuneration of the members of the International Tribunal for the Law of the Sea

50. In response to a request by the Meeting in 2004, the Registrar prepared a proposal for an appropriate mechanism for addressing the effects of fluctuations in the exchange rate on the remuneration of the members of the Tribunal (SPLOS/2005/WP.2). That document examined the floor/ceiling mechanism applicable to the emoluments of the members of the International Court of Justice since 1988, which had provided protection against the exchange rate fluctuations in respect of the emoluments of the members of the Court.

51. The President of the Tribunal, in introducing the document, drew attention to the report of the Secretary-General on conditions of service and compensation for officials other than the Secretariat officials (A/C.5/59/2), in which it was noted that the United States dollar had lost, on average, 26.8 per cent against the euro since January 2002. As a result, the annual and special allowances of the members of the Tribunal had been adversely affected. The Tribunal proposed to apply the floor/ceiling mechanism adopted for the members of the International Court of Justice to the members of the Tribunal as from 1 July 2005.

52. The President explained that should the floor/ceiling mechanism be adopted, an additional appropriation amounting to €764,889 would be required for the period from July 2005 to December 2006. The figures take into account the adjusted level of the annual remuneration of the members of the Tribunal. In order to finance this amount, the Tribunal proposed to use part of the savings from the financial year 2002 and the savings from the financial year 2004. In addition, the Tribunal sought a supplementary budget amounting to €351,889 for 2005-2006. The document was discussed in the open-ended working group, and on the recommendation of the working group, the Meeting adopted a floor/ceiling mechanism to regulate the remuneration of the members of the Tribunal (see SPLOS/133).

Report on common staff costs

53. The President of the Tribunal introduced a report on common staff costs (SPLOS/127), which had been prepared in response to a request made at the fourteenth Meeting. He recalled that, in preparing the budget proposal for the biennium 2005-2006, the Tribunal had expressed its preference for the method of budgeting common staff costs on the basis of a percentage of the net salary used by the United Nations. He stated that in order to determine whether the amount of €896,400 approved for 2005 would be sufficient to cover actual costs in 2005, the Tribunal was proposing a new estimate of €903,894, taking into account the performance in 2004. The amount was slightly higher than the one approved for

2005. He also stated that, as the difference was minimal, there was no need to make adjustments to the common staff costs for 2005 but added that, if necessary, the matter could be further reviewed in 2006.

54. The Meeting took note with appreciation of the report on common staff costs.

Budget performance for 2004

55. The President of the Tribunal introduced the report on action pursuant to the decision on budgetary matters for 2004 taken by the fourteenth Meeting (SPLOS/128). He stated that the performance remained within the approved budget. He explained that several budget lines were overrun in 2004 mostly as a result of the weakening of the United States dollar against the euro. He referred to a decision of the fourteenth Meeting (SPLOS/118) authorizing the Tribunal to finance overexpenditures by transfers, insofar as possible, between appropriation sections. He also indicated that the overexpenditures were offset against savings under other appropriation sections. He further underlined that the performance report contained two additional items, namely, the investment of funds of the Tribunal and the Korea International Cooperation Agency trust fund, created in March 2004.

56. The Meeting took note with appreciation of the report.

V. Information on the activities of the International Seabed Authority

57. The Secretary-General of the International Seabed Authority, Ambassador Satya N. Nandan, informed the Meeting of the activities carried out in 2004 by the International Seabed Authority. He referred to the draft regulations for the exploration and prospecting of polymetallic sulphides and cobalt rich crusts, which, when adopted, would complement the existing ones on polymetallic nodules. He stated, that whereas polymetallic nodules were widely dispersed on the surface of the seabed, polymetallic sulphides, found along the oceanic ridges, and cobalt-rich crusts, located on back arcs and seamounts, were three-dimensional and more localized. Consequently, they had to be regulated differently because the size of their deposit would not be easy to determine before extensive exploration. This affected block sizes and the number of blocks that should be assigned to enable a contractor to have a reasonable and viable area to explore without allocating unduly large areas to any one contractor. In addition, this affected the nature of participation by the Authority. Since it might not be practical to apply the existing parallel system of exploitation for polymetallic nodules, the draft regulations provide for equity participation by the Authority as an option. The draft regulations, developed by the Legal and Technical Commission, are being reviewed by the Council.

58. The Secretary-General of the Authority also recalled the workshop on polymetallic sulphides and cobalt crusts — their environment and considerations for the establishment of environmental baselines and an associated monitoring programme for exploration, which was held from 6 to 10 September 2004. The workshop was the seventh in a series aimed at increasing the understanding of the potential impact of the exploration of those resources on the marine environment, determining what is required for baseline studies, ascertaining the relevance of

current or past research programmes to that effort and suggesting guidelines to be submitted to the Legal and Technical Commission for establishing environmental baselines and for subsequent environmental monitoring. The workshop was attended by 40 participants from 18 countries, but it ended prematurely owing to the threats posed by hurricane Ivan. As a consequence, the three working groups were unable to complete their work. The Secretary-General of the Authority stated, however, that a meeting between the chairs of the working Groups and a representative of the mining industry had just taken place in New York to finalize the recommendations to be presented to the Legal and Technical Commission at its eleventh session and that the recommendations of the working groups and the proceedings of the workshop would be published by the Authority.

59. The Secretary-General of the Authority informed the Meeting of the development of a geological model for polymetallic nodule deposits in the Clarion-Clipperton Fracture Zone, which he had announced at the thirteenth Meeting and which was aimed at assisting the Authority in its administration of the Area as well as contractors and prospectors working in the Clarion-Clipperton Fracture Zone by improving the resource assessment for the Area. He drew attention to a meeting of technical experts convened by the Authority in Kingston from 6 to 10 December 2004 to outline the scope of the work required to develop the geological model, ascertain the availability of data on selected proxies, schedule the work required to gather, evaluate and incorporate suitable data sets into the model through mathematical algorithms and produce the first iterations of the geological model and draft of the prospector's guide. The group of technical experts identified the approach it would use to create the mode, and specified the proxy data that would be tested for use in predicting nodule grade and abundance. A follow-up meeting was convened by the Authority from 25 to 27 May 2005 at its headquarters in Jamaica. That meeting was attended by representatives of the technical experts involved in the model and contractors with the Authority for polymetallic nodule exploration in the Clarion-Clipperton Fracture Zone. The aims of the meeting were for the technical experts to describe the specific data that the Secretariat was requesting from contractors and how the data provided would support the development of the model, to determine specific descriptions of the data that would be supplied by the contractors and to identify potential ways in which the technical staff from the contractors could participate in the project. A full description of the progress made to date and future goals will be presented to the Legal and Technical Commission and the Council at its eleventh session.

60. The Secretary-General of the Authority also gave an update on the Kaplan project, which was being carried out by scientists from the University of Hawaii, the British Natural History Museum, the Southampton Oceanography Centre, Shizuoka University and the French Research Institute for Exploitation of the Sea (IFREMER), with the potential for participation by some of the contractors. The project aims at acquiring information on biodiversity, species ranges and gene flow in the abyssal Pacific nodule-bearing province with a view to predicting and managing the impact of deep seabed mining in order to facilitate future regulations for polymetallic nodule exploitation. Since the previous Meeting, a third research cruise to the Clarion-Clipperton Fracture Zone was conducted, under the auspices of IFREMER. It collected additional animal samples that are currently being analysed and investigated mining tracks produced by IFREMER 26 years before in order to monitor recovery and decolonization of the disturbed areas. The Kaplan project is

expected to be completed in July 2006, and the Authority will receive the data that have been accumulated as well as recommendations regarding the recovery of the deep abyssal plain communities likely to have been disturbed by a test mining system.

61. He further informed the Meeting that the Authority may receive an application for the approval of a plan of work in the form of a contract from Germany in respect of a mine site in the Clarion-Clipperton Fracture Zone before the eleventh session (15-26 August 2005). That would be the first new application since the entry into force of the Convention. The existing seven contractors had made their applications as pioneer investors to the Preparatory Commission.

62. The Secretary-General of the Authority urged all States parties who were members of the Authority to participate in the meetings of the Authority. The Authority, he noted, can conduct its business effectively only in the presence of a majority of its members. From a procedural point of view, the Convention requires for the meetings of the Assembly a quorum of at least one half of the member States, a threshold that has not always been met.

63. He made an appeal also to the countries that were not yet parties to the 1994 Agreement relating to the implementation of Part XI of the Convention (General Assembly resolution 48/263, annex), as well as to the Protocol on the Privileges and Immunities of the International Seabed Authority (ISBA/4/A/8), to become parties to those instruments

64. The Meeting took note with appreciation of the statement by the Secretary-General of the Authority.

VI. Information on the activities of the Commission on the Limits of the Continental Shelf

65. The Chairman of the Commission, Peter Croker, informed the Meeting of States Parties of the activities of the Commission. Besides conveying the information reflected in his letter dated 5 May 2005 addressed to the President of the fifteenth Meeting of States Parties (SPLOS/129), he informed the Meeting that Norway intended to proceed with its submission by 2006, Namibia and Sri Lanka in 2007 and Pakistan in 2007/08. He further stated that, since the issuance of his statement on the progress of the work of the fifteenth session (CLCS/44) and the issuance of his letter dated 5 May 2005, Ireland had made its submission.

66. The Chairman gave a PowerPoint presentation on the projected workload of the Commission. He emphasized that the presentation was based on several assumptions and his own estimates of the time required to complete the examination of each submission, and did not constitute the view of the Commission or the subcommissions. In that connection, he informed the Meeting that the chairmen of the current subcommissions were not able to give an estimate as to the projected completion of the work under their examination. On the assumption that there would be 10 sessions by the end of 2009, with an average of 19 members attending each session, the Chairman outlined three scenarios, characterized by different numbers of States making submissions. He also explained that an average of two to three subcommissions could be established to work in parallel at any given time.

67. The first scenario was based on the number of responses to the notes verbales addressed by the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs to certain coastal States requesting them to indicate the projected timing of their submissions to the Commission. According to that scenario, the Commission would receive 16 submissions by the end of 2009. Those include submissions from Oman and Tonga, States potentially having continental shelves. Since the Commission could support only up to three subcommissions, members of the Commission would be overallocated and there would be a need to extend the duration of the meetings of the subcommissions or the intersessional periods. Problems would become particularly severe by the eighteenth session when there would be eight members allocated at 200 per cent of capacity. From the twentieth to the twenty-fifth session, the Commission would have an average of five submissions for simultaneous consideration. That would require each member of the Commission to spend an average of three and a half months per year in New York.

68. The second scenario was based on a calculation made in 1978 during the Third United Nations Conference on the Law of the Sea, according to which 33 States may have an extended continental shelf and 28 of them would have a deadline expiring by the end of 2009. As in the previous scenario, the problems would intensify by the eighteenth session, and from the eighteenth to the twentieth session, members would be required to be in New York for three and a half months per year dealing with an average of eight submissions. From the twenty-first to the twenty-fifth session, the average would rise to nine submissions. He stated that that level of work would be unsustainable under the present system and that it would be necessary either to change the working method of the Commission or to queue the submissions.

69. According to the third scenario, based on a wider list of States that may have an extended continental shelf, there would be 59 States, 50 of which may have a deadline by the end of 2009. The Chairman did not go into the details of that scenario, since the second one had made clear already the scale of the difficulties the Commission was bound to face.

70. One delegation expressed the hope that the Commission would have the financial and material resources needed to carry out its mandate properly in view of the immense volume of work that lay ahead for its members. It underlined the increasing importance of cooperation between the Division and the Commission, referring, in particular, to the training manual and courses developed by the Division, which were of extreme importance to developing countries.

71. The delegation of Sri Lanka expressed its gratitude to the Division and the Commission for the training course held in Colombo in May 2005. The course had been supported by the Commonwealth Secretariat and the Government of Sri Lanka. It was attended by representatives of South Asian and African developing countries in the Indian Ocean region. The course, which had proved to be a very articulate and intensive example of capacity-building, received a very positive response from the participants.

72. In response to a request by one delegation, the Chairman of the Commission stated that the projected schedule would be given to the Commission for discussion at its next session and, if all the members were in agreement, it would be published as a Commission document.

73. The Meeting took note of the information provided by the Chairman of the Commission.

74. During the debates that took place under the agenda item entitled "Other matters", several delegations, in particular those whose submissions were being examined by the Commission, expressed their concern regarding the consistency of rule 52 of the Rules of Procedure of the Commission (CLCS/40) with the provisions of article 5 of annex II to the Convention. In their view, those provisions of the Convention did not empower the Commission alone to determine to which of its proceedings a coastal State may send its representatives. One representative of a State whose submission is under consideration by the Commission noted with appreciation the interaction between the Commission and his delegation, emphasizing that his statement was of a legal and technical nature and did not address an immediate practical concern. Another delegation added that in its experience, the Commission had applied its Rules of Procedure in a way which did not reflect the provisions of the Convention, stating that the Commission should not depart from the provisions of article 5 of annex II to the Convention.

75. Following a discussion on how to best proceed in that regard, it was agreed that the concerns of States parties expressed at the Meeting would be reflected in the present report and brought to the attention of the Commission, on the understanding that individual States were free to address separate communications on the issue to the Commission. It was further agreed that the sixteenth Meeting might revisit the matter if necessary.

76. The delegation of Cuba informed the Meeting that, in compliance with the relevant deadline, its Government was carrying out the scientific and technical work necessary to prepare a submission to the Commission under the oversight of a ministerial working group. The representative of Portugal announced that his country intended to make a submission to the Commission in 2009.

VII. Matters related to article 319 of the United Nations Convention on the Law of the Sea

77. Under this agenda item, the fifteenth Meeting had before it the report of the Secretary-General on oceans and the law of the sea (A/60/63).

78. General statements were made on the report. Several delegations welcomed the accession of new States parties to the Convention as an indication of its universal acceptance. A number of issues addressed in the report were noted and commented upon. These included effects of and developments, on the Indian Ocean tsunami; the genuine link and the exercise of flag States responsibilities; reflagging and illegal, unregulated and unreported fishing; fishing subsidies; destructive fishing practices, including the issue of a moratorium on bottom trawling; the United Nations Fish Stocks Agreement Review Conference in 2006; the role of the port State; illegal migrants; marine scientific research and the work of the Advisory Body of Experts on the Law of the Sea of the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization; marine biological diversity, bioprospecting and the ad hoc working group to be convened in 2006; the Proliferation Security Initiative as a means of ensuring safety of navigation and its

effects on innocent or transit passage; the Conference on Maritime Delimitation in the Caribbean and capacity-building.

79. Concerns were expressed regarding the continued deterioration of the conditions of seafarers and possible means for improvement; the vulnerability of small island developing States; and environmental risks associated with the maritime transport of radioactive material, which are being addressed through a new instrument adopted by the International Atomic Energy Agency. The important role of the institutions established under the Convention was also noted, as was the work of the Division and two members of the Commission in preparing the training manual to assist States with their submissions in accordance with article 76 of the Convention as well as the organization of training workshops in that regard by the Division. The issues of the future workload of the Commission and the fast-approaching deadline for submissions were also highlighted by some delegations.

80. However, at the fifteenth Meeting, divergent views continued to be expressed with regard to this agenda item.

81. The view that the Meeting of States Parties should not be limited to discussing administrative and budgetary matters, but that it should also consider substantive issues relating to the implementation of the Convention was reiterated by several delegations. According to those delegations, article 319, paragraph 3 (a), of the Convention constituted the legal basis for the consideration of issues relating to the implementation of the Convention by the Meeting. The Meeting of States Parties represented the logical forum for discussions on all issues pertaining to the implementation of the Convention and could contribute to finding consensus on emerging issues. Such a role would increase the effectiveness and usefulness of the Meeting. It was suggested that discussions at the Meeting of States Parties would complement the work of the Consultative Process and the General Assembly by providing a forum for exchange of information on State practice, promote cooperation and further debates on relevant issues of interest to States parties. One delegation pointed out that by assuming this role, States parties would be giving effect to their duty to cooperate under the Convention. Another delegation, however, stated that that should lead to the opening of the agenda item to a broader political discussion of substantive issues.

82. The view that the Meeting of States Parties did not have the competence to consider issues relating to the implementation of the Convention was also reiterated by some delegations. The relevant parts of the Convention that referred to the Meeting of States Parties were annexes II and VI, which required the Meeting to elect the members of the Commission on the Limits of the Continental Shelf and the judges of the International Tribunal for the Law of the Sea, as well as to determine the budget of the Tribunal. In the view of those delegations, article 319, therefore, should be interpreted as giving the Meeting of States Parties only an administrative and budgetary role. Furthermore, treaties that contained a mechanism to oversee their implementation explicitly provided for it, which was not the case in respect of the Convention. Furthermore, the negotiating history of the Convention had showed that a proposal to establish a mechanism to review common problems and address new uses of the sea had failed to attract the necessary support. It was also underlined that the General Assembly was the only inclusive forum in which to discuss substantive issues raised in the reports of the Secretary-General as well as the implementation of the Convention. The Consultative Process, on the other hand,

had been established by the Assembly to facilitate its annual review of developments in ocean affairs. It was noted by one delegation that since the report of the Secretary-General was presented to the Meeting of States Parties for information on the practice of States and on issues of general nature with respect to the Convention, only the first five chapters of the report (A/60/63) qualified under that description.

83. The Meeting decided to retain the agenda item "Report of the Secretary-General under article 319 for the information of States parties on issues of a general nature, relevant to States parties that have arisen with respect to the United Nations Convention on the Law of the Sea" to be included on its agenda for the next Meeting of States Parties.

VIII. Other matters

A. Statement by a representative of a non-governmental organization regarding seafarers

84. In accordance with rule 18, paragraph 4, of the Rules of Procedure, a representative of the Seamen's Church Institute was invited to address the Meeting as an observer. In his statement, he recalled that the drafters of the Convention had recognized that preserving and protecting an orderly environment for the men and women who worked on the seas was crucial to protecting all of the other interests addressed in the Convention.

85. Noting the entry into force of the International Ship and Port Facility Security Code, he stated that restrictions on merchant mariners' access to shore leave and welfare activities had improved but that much remained to be done, referring, as an example, to the ratification of the 2003 International Labour Organization (ILO) Seafarers' Identity Documents Convention (No. 185), which would strengthen maritime security and improve seafarer's access to shore leave. He recalled that pirates continued to threaten merchant mariners and that they were becoming increasingly brazen and violent. He also raised concerns regarding the erosion of the rights of seafarers attempted by maritime employers and also to the growing exposure of seafarers to criminal sanctions for non-criminal activities.

86. He further noted that fishing activities continued to be one of the most dangerous occupations, with high casualty rates and few regulatory safety protections. He also voiced disappointment that the annual ILO conference had not adopted the new convention on fishers, which would have improved safety and working conditions for the people working in the global fishing sector.

87. In conclusion, he reiterated an earlier appeal to the Meeting of States Parties to place on its agenda, as a matter of priority, the protection of seafarers and a review of how States parties implemented the relevant provisions of the Convention.

B. Duration of meetings

88. Several delegations stated that, despite the need to elect seven members of the Tribunal, the fifteenth Meeting had lasted longer than necessary. They suggested that future meetings be limited to four or a maximum of five working days, even

when elections were scheduled. Other delegations stated that, in the light of the discussions carried out under article 319, the sixteenth Meeting should be scheduled for a minimum of five working days.

C. Small island developing States

89. Some delegations from small island developing States highlighted the importance of capacity-building, in particular for those States, and requested further assistance in that regard. They reiterated the importance of the sustainable use of the marine environment and stated that they were encouraged by the Secretary-General's recognition of the central role of the oceans and seas in the historical, cultural and economic development of small island developing States. In that connection, they stated that they would like to see more attention paid to the need to avoid environmental destruction caused by deep-sea bottom trawling.

90. One delegation welcomed the fact that the Secretary-General's report contained proactive initiatives to better equip States to face the challenges of implementing the Convention and requested that part to be expanded. Appreciation was expressed for the fellowship programmes of the Division for Ocean Affairs and the Law of the Sea, such as the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea and the United Nations-Nippon Foundation Fellowship Programme, which facilitate capacity-building and human resources development. Member States that were in a position to do so were encouraged to contribute to the voluntary trust funds of the Division.

91. One delegation underlined the value of the Secretary-General's report to small island developing States that have limited capacity to gather, assess and act on the vast but scattered materials of interest in this area that are generated each year. It was further stated that the discussions at the Meeting provided a unique opportunity to understand, assist and cooperate in the special concerns of States parties relating to the implementation of the Convention and that States parties had special obligations to cooperate in good faith in the face of common and special difficulties. The forum could be used to build coalitions and plan strategies among States parties relevant to the work of the General Assembly meetings later in the year. Therefore, discussions on the substance of the report of the Secretary-General were necessary.

D. Statement by the President at the closure of the fifteenth Meeting of States Parties

92. The President opened his statement by noting that 148 States parties had participated in the Meeting, as reported by the Credentials Committee. He then recalled agenda items and the programme of work adopted by the Meeting.

93. On behalf of the Meeting, he expressed appreciation to the President of the Tribunal, the Secretary-General of the International Seabed Authority and the Chairman of the Commission on the Limits of the Continental Shelf for the information they had provided on the work of their respective institutions. He also expressed appreciation to the members of the Bureau, the Credentials Committee and the tellers for various roles performed during the Meeting.

94. He drew the attention of States parties to the need to ensure that the assessed contributions to the Tribunal were paid in full and on time. Similarly, he recalled that the Secretary-General of the International Seabed Authority had also underlined the need to pay contributions to the Authority in full and on time. He also urged States whose experts served on the Commission on the Limits of the Continental Shelf to facilitate their participation in meetings of the Commission and invited all States parties to consider how to provide further support to the Commission, taking into account the information contained in the statement of its Chairman.

95. The President recalled that the election of seven members of the International Tribunal for the Law of the Sea had been held in accordance with article 4, paragraph 4, of the Statute of the Tribunal.

96. He noted that the observer for the Seamen's Church Institute had brought to the attention of the Meeting important issues concerning maritime security and the well-being of crews of ships. He expressed his confidence that representatives of States parties had taken note of the statement as appropriate and would report the concerns of the workers at sea to their Governments.

E. Dates and programme of work for the sixteenth Meeting of States Parties

97. The sixteenth Meeting of States Parties will take place in New York, probably in June 2006.

98. The sixteenth Meeting will have on its agenda, inter alia, the following items:

(a) Report of the International Tribunal for the Law of the Sea to the Meeting of States Parties for 2005 (rule 6 of the Rules of Procedure for Meetings of States Parties);

(b) Information reported by the Secretary-General of the International Seabed Authority;

(c) Information reported by the Chairman of the Commission on the Limits of the Continental Shelf;

(d) Financial statement of the International Tribunal for the Law of the Sea and report of the external auditors for the financial year 2004;

(e) Draft budget of the International Tribunal for the Law of the Sea for the biennium 2007-2008;

(f) Report of the Secretary-General under article 319 for the information of States parties on issues of a general nature, relevant to States parties, that have arisen with respect to the United Nations Convention on the Law of the Sea;

(g) Other matters.

It should be noted that the items may not necessarily follow the above sequence.

Notes

[1] See *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea of 10 December 1982 and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.97.V.10).

[2] SPLOS/25.